

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUE**

The issue is whether appellant has met her burden of proof to establish carpal tunnel syndrome (CTS) causally related to the accepted factors of her federal employment.

## **FACTUAL HISTORY**

On May 20, 2016 appellant, then a 58-year-old medical administration officer, filed an occupational disease claim (Form CA-2) alleging that she sustained CTS while in the performance of duty.<sup>3</sup> She explained that her job duties had changed such that they now required constant keying, causing pain in her arms and hands and numbness and tingling bilaterally. Appellant noted that CTS was diagnosed on April 18, 2016, which was confirmed by a surgeon on May 5, 2016. She indicated that she first became aware of her claimed condition and its relation to her federal employment on February 18, 2016. Appellant did not stop work. The employing establishment noted that they were unaware of the cause of her injury, and when it was first reported.

By development letter dated June 20, 2016, OWCP informed appellant of the type of factual and medical evidence needed to support her claim and requested that she submit such evidence within 30 days. It asked her to describe in detail the keyboarding activities she believed contributed to her condition and to describe all duties which required exertion or repeated movement of the hand or wrist.

By separate letter of even date, OWCP requested that the employing establishment provide additional details regarding appellant's job duties.

In a May 5, 2016 report, Dr. Michael Lowry, a neurosurgeon, noted that appellant had hand pain for years which gradually worsened until two years ago when it got to its current level of severity. He indicated that the pain in her hands awakened her frequently at night. Dr. Lowry also noted that appellant had EMG and nerve conduction velocity (NCV) tests performed in 2005 at which time she was advised that she had CTS. He explained that Dr. Fariz Habib, a neurologist,

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<sup>3</sup> OWCP assigned the present claim OWCP File No. xxxxxx699. Appellant had a prior occupational disease claim beginning April 5, 2000, which OWCP accepted for bilateral CTS under File No. xxxxxx245. That case was administratively closed on November 30, 2011, because OWCP received no medical reports since May 22, 2009, and an electromyography (EMG) study dated April 20, 2009, revealed no evidence of entrapment neuropathy, peripheral neuropathy, brachial plexopathy, cervical radiculopathy, or myopathy. Appellant also has a June 9, 1998 traumatic injury claim accepted under OWCP File No. xxxxxx010 for neck strain (resolved July 10, 1998), lumbar sprain (resolved July 10, 1998), aggravation of degenerative osteoarthritis of left shoulder, left shoulder impingement syndrome, and aseptic necrosis of the head of humerus. OWCP noted that she had multiple left shoulder surgeries, most recently a January 12, 2017 left shoulder arthroscopy for which OWCP paid temporary total disability under claim File No. xxxxxx010. On February 17, 2015 appellant filed a notice of recurrence (Form CA-2a), claiming a recurrence of disability due to the bilateral CTS under OWCP File No. xxxxxx245. She alleged continual pain, tingling and numbness in both hands, and pain in her arms, which had been present since April 5, 2000. OWCP denied that claim on June 10, 2015, and a representative of OWCP's Branch of Hearings and Review affirmed that denial by decision dated April 26, 2016. On October 11, 2016 appellant filed another Form CA-2a claiming a recurrence of disability on February 18, 2016 due to the bilateral CTS under OWCP File No. xxxxxx245. By decision dated February 14, 2017, OWCP denied the recurrence claim as the medical evidence of record was insufficient to establish a material worsening of the accepted condition due to the original injury.

performed a recent EMG study on February 26, 2016 and found it to be normal. Dr. Lowry diagnosed CTS.

An x-ray of the cervical spine dated May 5, 2016, read by Dr. Earl Maes, a diagnostic radiologist, revealed no acute fracture or subluxation.

Dr. Matthew Nadler, a Board-certified anesthesiologist, provided reports dated May 5 and June 2 and 30, 2016. He diagnosed bilateral CTS and cervical radiculopathy. Dr. Nadler noted that this cervical pain was a recurring problem. In each of the reports, he noted that the pain was aching, dull, and sharp, and more severe and frequent, and qualitatively, rated as moderate. Dr. Nadler indicated that functional impairment was moderate and only interfered with some daily activities although mobility was worse. In his June 30, 2016 note, he indicated that appellant related that her original claim was in April 2000 and was closed. Dr. Nadler advised that the injury occurred over time with repetitive stress injury and that she was first diagnosed with CTS in 2000. Progress notes from January 2016 while partly illegible, mentioned CTS and suggested that it was ongoing for 16 years.

A July 20, 2016 EMG study examination performed by Dr. John Sands, a Board-certified neurologist, was normal and revealed no electrodiagnostic evidence of nerve entrapment syndrome, including CTS, affecting the bilateral upper extremities.

In a letter dated July 11, 2016, A.M., a human resources specialist, provided a response from the employing establishment. She noted that the employing establishment provided a June 29, 2016 e-mail response to OWCP questionnaire. The employing establishment indicated that appellant had stated that she had a 2004 claim that was improperly closed. However, it noted that they had not heard her talk about or show signs of CTS since being assigned a new supervisor. The employing establishment noted that appellant mentioned braces, but her supervisor had never seen her wear them. Additionally, appellant had a desk that was specially made for her, but the employing establishment was unsure whether the desk resolved her symptoms from 2004. The employing establishment also provided a position description.

By decision dated August 8, 2016, OWCP denied appellant's claim, finding that she had not established that the alleged employment factors occurred as described. It noted that she had not responded to the June 20, 2016 development letter. Furthermore, appellant did not submit any medical evidence containing a CTS diagnosis confirmed by objective diagnostic testing in conjunction with her work duties. OWCP explained that, while Drs. Nadler and Lowry diagnosed CTS, they did not indicate whether it was unilateral or bilateral, and the diagnostic testing did not confirm such a diagnosis.

In an August 3, 2016 letter, appellant explained that she had an approved claim for CTS in 2009 which was closed, but that her hand and arm condition had worsened through the years. She noted that several months ago she was moved to a different location without her ergonomic furniture. Appellant noted that her furniture was not moved even though she had explained that it was specifically for some of her work conditions. She stated that, since the move she had to sit in her chair at a strange angle, her keyboard tray was not where it should be, and her computers were at a bad angle. Appellant noted that all of this caused her issues with her work-related injuries flaring up and a great deal of pain.

OWCP also received an April 28, 2005 report from Dr. Howard Waldman, Board-certified in physical medicine and rehabilitation, which noted that appellant's current problems were uncontrolled bilateral CTS and cervical radiculopathy. Dr. Waldman found that she had normal bilateral upper extremity EMG and NCV studies. He explained that "[t]here were no findings of entrapment or peripheral neuropathy, myopathy, brachial plexopathy, or cervical radiculopathy." Dr. Waldman opined that appellant "may have a 'repetitive strain' type syndrome."

On August 18, 2016 appellant requested reconsideration. She referenced her prior claims and noted that she received office furniture after 2009 that was ergonomically correct and her computer and keyboard was set into position so that there was less stress on her arms and hands. However, appellant explained that she was moved to another office a few years ago and she was not allowed to take the furniture with her. She indicated that, without an ergonomic office, and after working long hours, she began to have issues with her hands, arms, back, neck, knees, shoulders, arms, and hands.

Appellant sought treatment from a physician, but was advised that her claim under OWCP File No. xxxxxx245 was administratively closed. She filed a recurrence claim on October 11, 2016. Appellant noted, since April 5, 2000, she was seen for tendinitis, cumulative injury syndrome, or over-used syndrome, bilateral elbow lateral epicondylitis greater than medial epicondylitis bilateral wrist first dorsal compartment tendinitis, left thumb carpometacarpal joint degeneration joint disease and right hand long, ring and small fingers probable flexor tenosynovitis (for which she had injections). She also noted that all of her physicians, including Dr. Naylor, had addressed her bilateral CTS and opined that it was work related.

OWCP received a July 28, 2016 report from Dr. Nadler noted his prior history and advised that he was awaiting reports from Dr. Habib regarding the most recent EMG studies of the upper extremities. Dr. Nadler noted treating appellant since 2004 and that was seen by other treating physicians in the past. He further noted that she had neck and shoulder pain that was not specifically mentioned two weeks ago at the time of the most recent evaluation. Dr. Nadler noted that he referred appellant to Dr. Lowry for her CTS with associate findings of positive bilateral Tinel's sign.

OWCP also received a September 16, 2016 x-ray, read by Dr. Maes, which revealed mild degenerative changes of the left shoulder without acute fracture or dislocation.

In a September 16, 2016 report, Dr. James K. Brannon, a Board-certified orthopedic surgeon, reviewed the September 16, 2016 x-ray and explained that appellant had subacromial impingement of the left shoulder. He advised that she presented to the clinic complaining of left shoulder pain after a recent relocation at work. Dr. Brannon determined that appellant had joint preservation of the left shoulder in January 2010 and did very well thereafter, but reportedly fell. He noted that he had not evaluated her for several years. Dr. Brannon explained that appellant reported today with the inability to raise her arm over her head. He reported that the pain was constant and appeared to be remaining the same and not improving. Dr. Brannon noted that appellant did not share a specific inciting event or (trauma) that resulted in her current complaint. He also noted that she indicated that she related that she had been removed from "an area wherein [appellant] used ergonomic furniture to using items that are not ergonomic."

Appellant, through counsel, requested a telephonic hearing, which was held before an OWCP hearing representative on March 1, 2017. During the hearing, counsel requested that her claim be consolidated with her earlier CTS claim to avoid confusion. He argued that they involve the same exposure, which has been denied as a recurrence in case OWCP File No. xxxxxx245 and denied as a new claim under this case. Appellant testified that she moved to a new building in the fall of 2015, without her ergonomic furniture or equipment. She testified that six months later she began to experience arm pain and tingling in her hands, and sought treatment in February 2016. Appellant testified that, in January 12, 2017, she underwent shoulder surgery, performed by Dr. Brannon. When asked to describe her work duties, she testified that she reviews e-mail, and receives between 100 to 300 e-mails per day in Outlook and 400 to 600 in Vista. Appellant testified that she makes rounds to check which employees are present, but most of her day is spent preparing reports while working at a terminal, using a mouse and keyboard. She testified that she spends a couple of hours each day using her hands and thumb to scroll up and down. Appellant testified that in an eight-hour shift she is working at her desk in front of a computer terminal at least six hours per day.

OWCP received a March 15, 2017 letter from Dr. Habib advising that appellant had reached maximum medical improvement (MMI).

By decision dated April 4, 2017, OWCP's hearing representative affirmed the August 8, 2016 decision. She found that the evidence of record was sufficient to establish that appellant reviewed e-mail and worked at a computer terminal for up to six hours per day, and that the ergonomic equipment and furniture appellant was previously provided was removed. However, it did not provide sufficient medical rationale explaining how the work or why factors resulted in the CTS, left shoulder impingement, and cervical radiculopathy. Regarding the left shoulder condition, OWCP's hearing representative explained that OWCP already paid temporary total disability for the left shoulder surgery under claim File No. xxxxxx010.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning FECA, that the claim was timely filed within the applicable time limitation period of FECA, that an injury was sustained in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors

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<sup>4</sup> *Joe D. Cameron*, 41 ECAB 153, 156-57 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.

The medical evidence required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>6</sup>

### ANALYSIS

The Board finds that appellant has not established that her CTS was causally related to the accepted factors of her federal employment.

The medical evidence of record does not provide sufficient medical rationale explaining how the accepted factors of appellant's federal employment resulted in the CTS, left shoulder impingement and cervical radiculopathy. This is especially important as there is a record of preexisting conditions.<sup>7</sup> With regard to appellant's previous CTS claim, the claim was administratively closed in November 30, 2011, because no new medical reports were received since 2009 and her EMG from April 20, 2009, revealed no evidence of entrapment neuropathy, peripheral neuropathy, brachial plexopathy, cervical radiculopathy, or myopathy. Furthermore, in the present claim, the record contains an EMG study dated July 20, 2016, read by Dr. Sands, who determined that the upper extremities were normal and revealed no evidence of entrapment syndrome or CTS affecting the bilateral upper extremities.

While Dr. Nadler's reports diagnose CTS, he did not explain how appellant's activities at work, such as reviewing e-mails and working at a computer terminal for up to six hours per day without her ergonomic equipment caused these conditions or how he arrived at the diagnosis. It is especially important for him to explain how he arrived at his opinion in light of the July 20, 2016 EMG study, which was normal. It is well established that medical reports must be based on a complete and accurate factual and medical background and medical opinions based on an incomplete or inaccurate history are of little probative value.<sup>8</sup>

Likewise, while Dr. Lowry diagnosed CTS, he failed to explain how he arrived at his diagnosis of CTS, in light of a normal EMG on February 26, 2016 and again on July 20, 2016, when the EMG scan was normal.<sup>9</sup> OWCP received a July 28, 2016 report from Dr. Nadler, who

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<sup>6</sup> *Id.*

<sup>7</sup> *See supra* note 3.

<sup>8</sup> *Douglas M. McQuaid*, 52 ECAB 382, 383 (2001).

<sup>9</sup> *Id.*

noted his prior history and advised that he was awaiting the most recent EMG studies of the upper extremities. Dr. Nadler noted that he referred appellant to Dr. Lowry for her CTS with associate findings of positive bilateral Tinel's sign. However, because he did not provide any diagnosis or opinion, these reports are of no probative value.<sup>10</sup>

In a September 16, 2016 report, Dr. Brannon, diagnosed a subacromial impingement of the left shoulder. While he noted that appellant's left shoulder pain began after her relocation at work, he did not provide an opinion as to the cause of her condition such that his report is of no probative value.<sup>11</sup> Additionally, the Board has held that the mere fact that her symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish causal relationship between the diagnosed condition and the accepted employment factors.<sup>12</sup> Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>13</sup> For these reasons this report of Dr. Brannon is of no probative value.

The March 15, 2017 letter from Dr. Habib merely reported that appellant reached MMI and did not provide an opinion on causal relationship. Thus, this report is also of no probative value.<sup>14</sup>

OWCP received reports of diagnostic studies including an x-ray of the cervical spine dated May 5, 2016, read by Dr. Maes, which revealed no acute fracture or subluxation. It also received a July 20, 2016 EMG study examination, performed by Dr. Sands which was normal and revealed no electrodiagnostic evidence of nerve entrapment syndrome, including CTS, affecting the bilateral upper extremities. Furthermore, OWCP received a September 16, 2016 x-ray, read by Dr. Maes, which revealed mild degenerative changes of the left shoulder without acute fracture or dislocation. Diagnostic studies lack probative value as they do not address whether the employment incident caused any of the diagnosed conditions.<sup>15</sup>

Appellant did not provide any reports from a physician with medical reasoning or rationale explaining how or why her work activities as a medical administration officer caused her diagnosed CTS condition.<sup>16</sup>

As there is no reasoned medical evidence explaining how appellant's employment duties caused or aggravated her hand/wrist condition, especially in light of the normal EMG, she has not

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<sup>10</sup> See *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

<sup>11</sup> *Id.*

<sup>12</sup> See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>13</sup> *Id.*

<sup>14</sup> *Supra* note 11.

<sup>15</sup> See *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

<sup>16</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

met her burden of proof to establish a medical condition causally related to factors of her employment.

On appeal, counsel argues that appellant already had an accepted claim for CTS. The Board notes that, while she had a prior accepted claim for CTS, that claim was administratively closed in November 30, 2011, for the reasons previously noted. As explained above, the evidence in the present claim is insufficient to establish causal relationship between appellant's CTS and the accepted factors of her federal employment.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish CTS causally related to the accepted factors of her federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the April 4, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 21, 2018  
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board